



MONTGOMERY COUNTY ETHICS COMMISSION

Public Meeting of September 9, 2014

Minutes

IN ATTENDANCE:

Commissioners:	Kenita V. Barrow, Chair Mark L. Greenblatt, Vice-Chair Claudia Herbert
Staff Members:	Robert W. Cobb, Chief Counsel Erin Chu, Program Manager
Members of the Public:	Hillary Lucas, Walter Rouse, Victor Rouse

Item 1. The meeting was called to order at 7:25 p.m.

Item 2. The minutes from the 7/8/14 meeting were approved as presented.

Item 3. Robert Cobb provided a brief update on Ethics Commission program operations. He indicated that there were no issues pending regarding the system; Erin Chu stated some minor system upgrades were being implemented to provide greater administrative capabilities for Ethics Commission staff. The lobbying activity reporting requirements have been fulfilled for the semi-annual period with no significant issues arising, except as noted below. With respect to the development of the outside employment electronic filing system, the Department of Technology Services has pushed back the timetable for project completion due to other priorities. Work is to begin later in September.

Item 4. Cobb briefly discussed the pending legislation and the position of the Ethics Commission in connection with the presentation of the legislative package to the County Council on September 16. It is anticipated that the legislation will be referred to

Committee for further action on September 22. The Chair of the Commission intends to attend that session.

Item 5. Cobb discussed briefly the notice from the Chief Administrative Officer regarding the selection of a sole source contractor to make repairs to the Silver Spring transit center. Cobb indicated that he had forwarded the document to the Inspector General, who has been involved in assessing the status of the project, and the Inspector General did not identify any issues the Commission should be concerned with. No action is required or expected to be taken by the Commission when notices of this kind are sent to it.

Item 6. The Commission addressed whether a gift of attendance at an event (with a value over \$50) that is reportable by a lobbyist under 19A-25(c)(2)(F) has to be reported as a gift to an employee pursuant to 19A-25(c)(4) or whether instead, the gift is excepted from (c)(4) reporting by virtue of the statement in 19A-25(d) that an expense reported in (c)(2)(F) need not be allocated to individual public employees.

The Commission discussed the analysis prepared by Cobb and concluded that individual itemization of gifts required by 19A-25(c)(4) is negated in instances arising under the exception at 19A-25(d). There was a consensus that the statutory provision is not clear. The Commission's believed the exception in 19A-25(d) only made sense if it applied to the requirement in 19A-25(c)(4). In addition, the Commission believed that there was no reason to believe the County sought to have its law deviate from the Maryland State Ethics Law on the point. That law, upon which Montgomery County Law is based and is required to be at least similar to, supports the notion that (d) would constitute an exception for reporting under (c)(4). Under, the Maryland law, it is absolutely clear that allocation to particular employees is not required even if the value received meets the gift reporting threshold. See 15-704 of the State Ethics Law at (b)(2)(vii) and (c).

Item 7. Cobb discussed the status of the proposal for a regulation addressing enforcement related matters for the Commission. The Commission directed Cobb to proceed to work with appropriate parties including the County Attorney's office to have a draft regulation addressing the issues generated for further consideration by the Commission.

Item 8: The Commission discussed an issue concerning the County's leave donation policy. Cobb indicated that when employees seek solicitations of leave from other employees, doing so runs counter to the solicitation prohibitions of the County's ethics law. Cobb indicated that he had brought the issue to the attention of the County Attorney, who agreed that there was an issue. The CA suggested that if donors were anonymous to those seeking the donations, that might be a positive guard against employees feeling pressured to give. Cobb indicated that he had also corresponded with the Director of Human Resources who was concerned that the Ethics Commission would take action without taking into account all of the considerations, particularly the structure of the leave policy and the fact that the policy incorporates negotiated agreements with employee unions. The Ethics Commission directed Cobb to proceed to address the issue

with concerned parties with a view towards the generation of a class waiver document that includes an anonymous donor element.

Item 9: The Ethics Commission directed Cobb to produce a memorandum on the legal merits supporting the bifurcated public/administrative meeting structure employed by the Commission to conduct its activities.

The meeting adjourned at 8:18.

Respectfully Submitted,

A handwritten signature in black ink that reads "Robert W Cobb". The signature is written in a cursive, slightly slanted style.

Robert W. Cobb
Chief Counsel